

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION STUDENT-
ATHLETE CONCUSSION LITIGATION**

MDL NO. 2492

Master Docket No. 13-cv-09116

Judge John Z. Lee

Magistrate Judge M. David Weisman

**UNOPPOSED FIFTH MOTION FOR LEAVE TO PAY
MEDICAL MONITORING EXPENSES
FROM THE SETTLEMENT FUND**

Settlement Class Counsel respectfully requests that the Court grant leave to the Program Administrator to pay Medical Monitoring Program expenses from the Medical Monitoring Fund to Epiq Mass Tort (f/k/a Garretson Resolution Group) for payment of (1) \$12,899 for past and projected Class Member Services (call center) activity, (2) \$135,243 for maintenance of the network of Program Locations, (3) \$16,710 in provider support and provider invoice processing activities, (4) \$89,076 in software maintenance, (5) \$101,024 in ongoing Program management, and (6) \$10,000 in pass-through licensing fees to Pearson, and \$3,000 in pass-through access fees to LexisNexis.

In support thereof, Settlement Class Counsel state as follows:

1. On November 5, 2019, the Court set November 18, 2019 as the Effective Date under the terms of the Second Amended Class Action Settlement Agreement (Dkt. 558-1) (“Settlement Agreement”). *See* Dkt. 578. Under the terms of the Settlement Agreement, Epiq, as the Program Administrator, is directed to make certain payments from the Medical Monitoring Fund, including “[a]ll payments for costs of administration of the Medical Monitoring Program, in amounts to be approved by the Court.” Dkt. 558-1 at Section IV.A.2.c.

2. Since the previous submission to the Court on October 8, 2021 (Dkt. 616), Epiq has incurred additional expenses in 2021 and 2022 in its ongoing implementation and delivery of the Medical Monitoring Program. Declaration of Crystal Utley of Epiq Mass Tort (“Utley Decl.”) ¶ 2 (filed with this Motion as Exhibit 1).

3. Epiq seeks reimbursement of fees and expenses falling within the following *six* categories. *Id.* ¶ 14.

4. First, Epiq requests approval of \$12,899 for *2022 Class Member Services (call center) activity*. *Id.* ¶¶ 5, 14.

5. In total, Epiq projects past and projected Class Member Services activities through the end of 2022 to total \$12,899. Based on work performed to-date, as well as anticipated work for remainder of the year, Epiq projects that expenses for this category of tasks will not exceed that amount.. *Id.* ¶ 5.

6. Second, Epiq requests \$135,243 for *maintenance of the network of Program Locations for 2022*. *Id.* ¶¶ 4, 14.

7. In the 2015 cost estimate, the Program Administrator estimated inflation-adjusted expenses of \$135,243 for 2022. Based on work performed to-date, as well as anticipated work for remainder of the year, Epiq projects that expenses for this category of tasks will not exceed that amount. *Id.* ¶ 4.

8. Third, Epiq requests \$16,710 in *provider support and provider invoice processing activities*. *Id.* ¶¶ 6, 14.

9. These activities encompass the Epiq Operations Team’s work in support of providers at Program Locations, including assistance with the Provider Portal, troubleshooting issues, and processing and paying provider invoices. These activities began in May 2021. In the

2015 cost estimate, the Program Administrator estimated inflation-adjusted expenses of \$16,710 for 2022. Based on work performed to-date, as well as anticipated work for remainder of the year, Epiq projects that expenses for this category of tasks will not exceed that amount.. *Id.* ¶ 6.

10. Fourth, Epiq requests \$89,076 in *software maintenance* expenses. *Id.* ¶¶ 7, 14.

11. In the 2015 cost estimate, the Program Administrator estimated inflation-adjusted expenses of \$89,076 for 2022. Based on work performed to-date, as well as anticipated work for remainder of the year, Epiq projects that expenses for this category of tasks will not exceed that amount.. *Id.* ¶ 6.

12. Fifth, Epiq requests \$101,024 in *ongoing Program management* expenses. *Id.* ¶¶ 9, 14.

13. Overall Program management beyond initial Program setup was not contemplated in Epiq 2015 cost estimate. Although management of the individual tasks described earlier in this Declaration was included in the cost estimates for those activities, overall Program management activities such as communications with the Special Master, the Parties, and the Medical Science Committee; reporting; and coordination among various Epiq departments were not included in the 2015 cost estimate. *Id.* ¶ 8.

14. Epiq projects that 2022 expenses in this category will be in line with those incurred in 2021, adjusted for inflation. Program Management expenses in 2021 were \$97,608. When adjusted for inflation, this amounts to \$101,024. Based on work performed to-date, as well as anticipated work for remainder of the year, we project that expenses for this category of tasks will not exceed that amount. *Id.* ¶ 9.

15. Finally, Epiq requests \$10,000 in pass-through *licensing fees* to Pearson, and \$3,000 in pass-through *access fees* to LexisNexis. *Id.* ¶¶ 11-14.

16. As described in the previous declaration (Dkt. 616-1), the Program Administrator previously paid up-front licensing fees to owners of four psychological assessments required by the Medical Science Committee as part of the Screening Questionnaire. The owner of two tests, Pearson (which owns the Beck Depression Inventory II [BDI-II] and the Brief Symptom Inventory 18 [BSI-18]), agreed to allow the Program to pay for assessments as they are used, along with the payment of an up-front \$6,880 licensing fee. Based on pay-as-you-go charges to date and projected charges for the remainder of 2022, Epiq estimates pass-through licensing fees of no more than \$10,000 for the Pearson tests administered through the Screening Questionnaire. *Id.* ¶ 10-11, 13-14 .

17. Epiq has also paid fees to LexisNexis for use of its proprietary identity verification service. This service enables Epiq to verify the identity of all individuals attempting to register for the Program with the use of their personal identifying information. Epiq pays a monthly fee of \$250 for use of this technology. Epiq projects total pass-through costs for this technology of \$3,000 in 2022. *Id.* ¶ 12-14.

18. Per the Court's prior instructions, Epiq has demonstrated how the costs are in line with or depart from costs addressed in prior Epiq Reports submitted on April 14, 2015 (Dkt. 161), April 20, 2015 (Dkt. 170), August 9, 2018 (Dkt. 516), April 8, 2020 (Dkt. 591), February 4, 2021 (Dkt. 606), and October 5, 2021 (Dkt. 616). *See* Utley Decl. ¶ 5 (discussing class member services expenses), ¶ 4 (discussing Program Location Network maintenance expenses), ¶ 6 (discussing provider support and provider invoice processing expenses); ¶ 7 (discussing software maintenance expenses); ¶¶ 8-9 (discussing program management expenses); ¶¶ 10-13 (discussing pass through expenses).

19. Combined with hourly fees of \$2,558,076 previously approved by the Court, hourly fees requested in this Declaration of \$354,952 would result in total approved hourly fees for the Program to date of \$2,913,028. Utley Decl. ¶¶ 15.

20. Combined with pass-through expenses of \$107,868 previously approved by the Court, pass-through expenses requested in this Declaration of \$13,000 would result in total approved pass-through expenses for the Program to date of \$120,868.

21. Settlement Class Counsel certifies that these settlement expenses are necessary for the purpose of a just and efficient settlement of this case.

22. The NCAA does not oppose this motion.

WHEREFORE, Settlement Class Counsel respectfully requests the Court grant leave for payment of \$367,952 in fees and expenses to Epiq Mass Tort.

Date: August 17, 2022

Respectfully submitted,

By: /s/ Daniel J. Kurowski

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on August 17, 2022 a true and correct copy of the foregoing was filed electronically via CM/ECF, which caused notice to be sent to all counsel of record.

By: /s/ Daniel J. Kurowski